

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FORD MOTOR COMPANY, a
Delaware corporation, and **FORD
GLOBAL TECHNOLOGIES,
LLC**, a Delaware Limited Liability
Company,
Plaintiffs,

vs.

INTERMOTIVE, INC., a
California corporation, and
GREGORY E. SCHAFER, an
individual,

Defendants.

4:17-CV-11584-TGB-APP

**ORDER APPOINTING
DISCOVERY MASTER**

At a recent status conference, the Court discussed with the parties its intent to appoint a discovery master/mediator to address various motions to strike expert testimony and responses and replies thereto. ECF Nos. 151, 152, 154, 155, 163, 164, 165, 166, 167, 169, 171, 172, and 174. The Court invited the parties to agree upon a candidate to serve in this capacity, but the parties were unable to reach any consensus. Given the complexity of the issues and the benefits afforded to the Court from drawing on the expertise of a highly competent special master, the Court concludes that the appointment of a Discovery Master to address

them will promote efficiency and expedite the ultimate resolution of the litigation. Fed. R. Civ. P. 53.

Therefore, pursuant to Rule 53 of the Federal Rules of Civil Procedure and the Court's inherent authority, the Court notifies the parties of its intent to appoint intellectual property attorney Christopher G. Darrow, principal of Darrow Mustafa, P.C., as discovery master and mediator for this case.¹ The Discovery Master is authorized and empowered to supervise, manage, and make recommendations to the Court regarding disposition and resolution of the motions to strike expert testimony. Mr. Darrow shall file an affidavit within one week of this order, affirming that he knows of no non-disclosed grounds for disqualification under 28 U.S.C. § 455 that would prevent him from serving as Discovery Master. Fed. R. Civ. P. 53(b)(3)(A).

The appointment shall become effective seven days from today's date, absent written objections from any party. Fed. R. Civ. P. 53(b)(1). The Discovery Master shall meet with the parties regarding the motions

¹ Mr. Darrow has been previously appointed as a special master, discovery master, confidential advisor, and/or mediator by judges in this district. He previously served as a judicial law clerk to a federal judge in this district. A copy of Mr. Darrow's curriculum vitae and list of cases in which he has assisted judges can be found at www.darrowmustafa.com/christopher-g-darrow. Mr. Darrow believes that he does not have any conflicts of interest. His discounted hourly rate for helping the Court is \$300, which would be payable half by Plaintiffs and half by Defendants, subject to eventual shifting if the Court finds that to be appropriate.

and any subsequent motions to strike expert testimony. The Discovery Master may conduct hearings and conferences with the parties in the manner and at the times and locations he may deem appropriate.

After consultation with the parties, the Discovery Master will submit a report and recommendation to the Court that addresses the following topics:

- (1) Defendants' Motion to Exclude the Testimony of Scott Andrews, ECF No. 151;
- (2) Plaintiff's Motion to Exclude Testimony of Mark A. Robinson, ECF No. 152;²
- (3) Defendants' Motion to Exclude Testimony of Sara Rinke, ECF No. 155;
- (4) Plaintiff's Motion to Exclude Testimony of Juan Pimentel, ECF No. 163.
- (5) Any other expert testimony-related motions, responses or replies.

The Discovery Master shall file the report and recommendation no later than Friday, August 12, 2022, subject to reasonable extensions. Before filing his report, the Discovery Master may submit a draft of his report to counsel for the purpose of receiving their suggestions and

² Including *Sealed* Motion to Exclude Testimony of Mark A. Robinson, ECF No. 154.

objections.³ After receipt and consideration of counsel's suggestions and objections, the Discovery Master shall issue his report by filing it with the Court. The report shall note with particularity the suggestions and objections of the parties. A party may file objections to the Discovery Master's report with this Court no later than ten (10) days of the Discovery Master filing and serving his report.

The Discovery Master shall be compensated by the parties at his usual rate and reimbursed for reasonable travel expenses. The fees and expenses of the Discovery Master shall be shared equally by Plaintiffs and Defendant, subject to redistribution by the Court upon recommendation of the Discovery Master or in the discretion of the Court.

All communications between the Court and Mr. Darrow would be confidential and not subject to disclosure or discovery. Mr. Darrow would also conduct settlement conferences with the parties as directed by the Court or as agreed by the parties.

WHEREFORE, it is hereby **ORDERED** that Christopher G. Darrow (darrow@darrowmustafa.com; (248) 864-5961) is **APPOINTED** Discovery Master and is authorized and empowered to supervise, manage, and make recommendations to the Court regarding disposition and resolution of the motions to strike expert testimony.

³ "This is known as settling the master's report." Armistead M. Dobie, *The Federal Rules of Civil Procedure*, 25 Va. L. Rev. 261, 293 n.128 (1938).

Any party objecting to this appointment must file a written objection setting forth the basis and supporting facts within seven (7) days of this Order.

IT IS SO ORDERED.

Dated: April 26, 2022

s/Terrence G. Berg
TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE